

EXHIBIT (1)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

* * * * *

CLAUDETTE DE LEON, *

Plaintiff * Case No.

vs. * 05-126E

CRAWFORD CENTRAL *

SCHOOL DISTRICT *

CRAWFORD CENTRAL *

SCHOOL BOARD, *

Defendants, *

MICHAEL E. DOLECKI, *

Superintendent, *

Defendant, *

CHARLES E. HELLER, *

III, Assistant *

Superintendent, *

Defendant *

* * * * *

DEPOSITION OF
CLAUDETTE DE LEON

April 4, 2006

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1 Some other teachers say it out
2 loud. They say, you're failing.
3 Because I heard them, especially when I
4 was witnessing other teachers and I'd
5 have to go to several other classes.
6 They'd say, hey, you, you're failing.
7 They did. I never did because I know
8 it was confidential. So I wrote it in
9 a little piece of paper, and I'd give
10 it to them, and any other information,
11 of course. I never called any other
12 parent before, prior to that.

13 Q. And you never opened any grade
14 books and showed the class other
15 students' grades?

16 A. Of course not. My grade book
17 was my grade book.

18 Q. Now, if you will recall from the
19 last arbitration, there was an issue
20 about your copying Mr. Flipping on
21 correspondence that related to
22 students' discipline and identified the
23 students by name; do you remember that
24 issue?

25 A. Yes. Uh-huh (yes).

1 Q. And it is correct that Mr.
2 Flipping was copied on some of that
3 information; correct?

4 A. It was only one page that I
5 recall that Mr. Deshner brought up.
6 And I was explaining to him --- I can't
7 recall if it was when I was talking to
8 Mrs. McDaniels about this particular
9 student. And I cannot recall the issue
10 that we were discussing, that he
11 happened to be --- that I told him the
12 kind of students ---.

13 Oh, I know. If I recall very
14 well, these students were screaming,
15 yelling in front of my class, you're
16 going to be fired. Because of you, I
17 already went to the office because Mr.
18 Higgins is asking us, how'd you act,
19 what'd you say, what'd you do in class?
20 And because of you, I had to go to the
21 office. And you are going to get
22 fired. In front of the whole entire
23 class.

24 And I sent him a memo saying,
25 this is what the students are saying.

1 And this other student, Megan --- I
2 can't recall her name right now. One
3 is Thomas. The other one is Megan. I
4 have the memo, if you have a copy of
5 that. And I said, this particular
6 student, that I'm having a great deal
7 of difficulty with him academically. I
8 already called his mother, he was a D
9 student, that I was having difficulty
10 keeping him on task. The other girl, I
11 didn't have that much problem. But
12 still, at the beginning, she was a very
13 nice student.

14 And after Mr. Higgins told her
15 to ask them how I act --- because she
16 said the same thing. Yeah, we were
17 called to the office because of you.
18 If you keep sending students to the
19 office, you are not going to be
20 teaching here for too much longer.
21 That's what Mr. Higgins said in front
22 of the whole entire class.

23 So I copied Mr. Flipping with
24 all the comments and telling him, this
25 is the kind of student, and they're

1 asking him about my professional
2 performance when this is a D student
3 that is not even paying attention, and
4 I have so much difficulty keeping him
5 on task and turning in his homework.

6 I explained to him the situation
7 and the type students, that they were
8 being questioned about me, how I acted,
9 what I said, what did I do. And there
10 were two incidents which also
11 aggravated my lawyer. Cassandra Prenak
12 (phonetic) was asking Higgins about me,
13 how I act, what did I say in class.
14 Well, he observed me. He gave me S.

15 Q. And you didn't feel that that
16 type of exchange was a violation of the
17 student confidentiality policy?

18 A. Do you think that it was a
19 violation of the teacher's
20 confidentiality?

21 Q. I'm asking if you believe that
22 was in violation of the student's
23 records privacy.

24 A. Telling the students that I was
25 going to be fired and telling the

1 parents ---?

2 Q. My question is, didn't you
3 believe that that kind of exchange, in
4 identifying a student by name ---?

5 A. Not to human relations, no.

6 Q. And who told you that, or is it
7 just your own feeling?

8 A. It's not my own feeling. I did
9 provide him with all the documentation
10 that was necessary, and my lawyers,
11 because I have filed a complaint. And
12 legally, I was allowed --- if they
13 weren't allowed, they did, too. They
14 sent all the documentation, including
15 all my documentation, my medical files.
16 All this is confidential information.
17 And they sent it to human relations, as
18 well, even documentation that they were
19 not allowed to submit. Remember when
20 the arbitrator said what's good for the
21 goose ---?

22 Q. Again, you're confusing the law
23 that is the basis of this action for
24 what the arbitrator said, which was to
25 purge your file so it was not to be

1 used for further disciplinary action
2 against you on that basis. That is a
3 separate issue, completely separate.
4 Let me show you what's already been
5 marked as, I believe, Exhibit 15. Ms.
6 de Leon, have you ever seen this
7 document called the Pennsylvania Code
8 of Professional Practice and Conduct
9 for Educators?

10 A. No. I never seen it until just
11 now. Have they seen it? Have they
12 seen the Professional, --- have you seen
13 this document? Why don't you give him
14 a copy?

15 Q. This is the law, and I'm going
16 to direct your attention under
17 practices, which is 22 Pa.C. 235.4,
18 that's practices. And looking to page
19 two, there are a variety of practices
20 that are listed that are expected under
21 the law of professional educators. And
22 one of them, if you look to number (9),
23 it states, professional educators shall
keep in confidence information obtained
in confidence in the course of their

1 professional service unless required to
2 be disclosed by law or by clear and
3 compelling professional necessity as
4 determined by the professional
5 educator. So my question to you is, do
6 you believe that your copying Mr.
7 Flipping on all of that student
8 information falls within number nine?

9 A. Correct. Yes.

10 ATTORNEY NICHOLS:

11 Counsel, let me state for
12 the record before you continue
13 to put this question to my
14 client like that, I have to
15 remind you of the ruling by
16 Arbitrator Amis on this
17 particular issue dealing with
18 the release of student
19 information to Mr. Flipping and
20 other members of the PHRC. That
21 did come before Mr. Amis. Mr.
22 Amis specifically ruled on ---.

23 ATTORNEY HEATH:

24 Please do not lecture me
25 about the arbitration.

ATTORNEY NICHOLS:

No, I'm saying --- but
you asked her ---.

ATTORNEY HEATH:

I don't want to know
about that. What I'm asking
her ---.

ATTORNEY NICHOLS:

But it's not fair for
you ---.

ATTORNEY HEATH:

Oh, dear God.

ATTORNEY NICHOLS:

It's not fair for
you ---.

CERTIFIED SECTION

ATTORNEY HEATH:

Certify this on the
record. I'm going to the Judge.
I cannot put up with this. I
will not put up with this.

ATTORNEY NICHOLS:

But I welcome my
opportunity to go to the Judge
and listen because this is not

1 fair. It's unfair for
2 you ---.

3 ATTORNEY HEATH:

4 This is ridiculous.

5 ATTORNEY NICHOLS:

6 Let the record reflect
7 it's unfair for you to, one,
8 first of all, suggest that my
9 client violated the law in any
10 fashion ---.

11 ATTORNEY HEATH:

12 Put your objection on the
13 record and move on. This is a
14 deposition under the Federal
15 Rules.

16 ATTORNEY NICHOLS:

17 No. Wait a minute. You
18 asked her a question and she has
19 a right to --- we have a right
20 to respond.

21 ATTORNEY HEATH:

22 You do not testify. She
23 can testify.

24 ATTORNEY NICHOLS:

25 No, no. I have a right

1 to speak to this legal issue.

2 ATTORNEY HEATH:

3 Oh, dear God.

4 ATTORNEY NICHOLS:

5 And the legal issue is
6 this. Arbitrator Amis
7 ruled ---.

8 ATTORNEY HEATH:

9 Sir, as we're going to
10 the Judge ---.

11 ATTORNEY NICHOLS:

12 The arbitrator --- yes,
13 we're going to the Judge.

14 ATTORNEY HEATH:

15 Certify this. I will
16 move on. I will move on.

17 ATTORNEY NICHOLS:

18 We're going to the Judge
19 on this.

20 ATTORNEY HEATH:

21 This is ridiculous.

22 ATTORNEY NICHOLS:

23 No, no, no. No, it
24 isn't. You raised it.

25 ATTORNEY HEATH:

1 I'll call him. Call him.
2 Want to call him on the phone?

3 ATTORNEY NICHOLS:

4 Yes. Please, please.

5 ATTORNEY HEATH:

6 All right.

7 ATTORNEY NICHOLS:

8 Arbitrator Amis ---

9 ATTORNEY HEATH:

10 I don't care about that.

11 ATTORNEY NICHOLS:

12 --- ruled, invalidating
13 the charge which Mr. Dolecki
14 charged her with immorality. He
15 expunged it. He said it's
16 invalidated because she was
17 authorized to do what she did.
18 I have the opinion here. Now,
19 this here is saying she is
20 violating a section of code in
21 light of that. Arbitrator Amis
22 ruled what she did with this
23 information is authorized.

24 You are now saying ---
25 and you not only implied, you

1 insisted that she violated these
2 Professional --- and the law in
3 professional code is just plain
4 wrong. And he said that when
5 Mr. Dolecki charged her with
6 immorality. This is what he
7 said. I have the record. He
8 said one, there was no time that
9 she sought to deceive.

10 ATTORNEY HEATH:

11 Again, ---.

12 ATTORNEY NICHOLS:

13 Obviously, that's in the
14 record.

15 ATTORNEY HEATH:

16 Okay.

17 ATTORNEY NICHOLS:

18 And I'm not going to have
19 you charge my client unfairly.
20 I welcome the opportunity. We
21 will talk to the Judge.

22 ATTORNEY HEATH:

23 I'm not talking to you
24 until you calm down.

25 ATTORNEY NICHOLS:

1 I will not allow you to
2 impugn her motive.

3 ATTORNEY HEATH:

4 Please let the record
5 reflect ---

6 ATTORNEY NICHOLS:

7 I've got the record
8 saying otherwise. The
9 arbitrator said otherwise.

10 ATTORNEY HEATH:

11 --- Mr. Nichols is
12 pounding his fist on the table.
13 He has stood up and he is
14 screaming.

15 ATTORNEY NICHOLS:

16 That's right.

17 ATTORNEY HEATH:

18 Let the record reflect
19 that. And at this point, I
20 don't think it would be
21 professionally in your best
22 interest to speak to the Judge
23 unless you calm down.

24 ATTORNEY NICHOLS:

25 Well, I'll tell you, I'm

171

1 not going to allow you to say
2 that.

3 ATTORNEY HEATH:

4 This is absolutely
5 absurd. If you want to take a
6 deposition ---.

7 ATTORNEY NICHOLS:

8 I'm not going to allow
9 you to impugn her character that
10 way. You impugned her
11 character.

12 ATTORNEY HEATH:

13 If you want to end this
14 deposition, then withdraw your
15 complaint and let the
16 termination stand. If you want
17 to talk about arbitrations, the
18 award was that she was fairly
19 terminated for just cause. Let
20 it stand.

21 ATTORNEY NICHOLS:

22 No. I'm talking about
23 Arbitrator Amis.

24 ATTORNEY HEATH:

25 I can ask about the

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1 confidentiality issue. I have a
2 right to.

3 ATTORNEY NICHOLS:

4 He ruled on that very
5 issue you couldn't before.

6 ATTORNEY HEATH:

7 What?

8 ATTORNEY NICHOLS:

9 He has ruled. He has
10 ruled.

11 ATTORNEY HEATH:

12 Ruled what? So what?

13 ATTORNEY NICHOLS:

14 And now you are saying
15 --- you asked her to ---.

16 ATTORNEY HEATH:

17 It's not res judicata.

18 ATTORNEY NICHOLS:

19 You were just saying
20 --- you impugned her character.

21 ATTORNEY HEATH:

22 Oh, yes, because she's
23 put her character at issue.

24 ATTORNEY NICHOLS:

25 No, she hasn't.

1 ATTORNEY HEATH:

2 Well, her credibility is
3 at issue.

4 ATTORNEY NICHOLS:

5 I'm not going to sit here
6 and allow you ---

7 ATTORNEY HEATH:

8 I can't believe this.

9 ATTORNEY NICHOLS:

10 --- to impugn her
11 character away when I know what
12 the arbitrator said. He said
13 that those charges of immorality
14 that were brought against
15 her ---

16 ATTORNEY HEATH:

17 I'm asking about
18 confidentiality.

19 ATTORNEY NICHOLS:

20 --- by the
21 administrator ---

22 ATTORNEY HEATH:

23 How is confidentiality
24 and immorality ---

25 ATTORNEY NICHOLS:

1 --- were wrong.

2 ATTORNEY HEATH:

3 --- the same thing? How
4 on God's earth is that true?
5 He's not even listening to my
6 question at this point. He's
7 throwing a fit and a tantrum.

8 ATTORNEY NICHOLS:

9 Please ask Mr. Dolecki.
10 He brought the charges.

11 ATTORNEY HEATH:

12 This is the most
13 unprofessional, ridiculous
14 action that I have heard ---

15 ATTORNEY NICHOLS:

16 The question, is it true?

17 ATTORNEY HEATH:

18 --- in 18 years of
19 practice.

20 ATTORNEY NICHOLS:

21 The question, is it true,
22 though? Is it true? Counsel,
23 is it true?

24 ATTORNEY HEATH:

25 I'm asking if she

1 believes that her copying Mr.
2 Flipping was ---.

3 ATTORNEY NICHOLS:

4 And the arbitrator
5 answered that. He answered
6 that. You might not want to
7 read it, but I'm not going to
8 sit here and allow you to impugn
9 her character. You ask your
10 client, did he charge her with
11 immorality? You ask him.

12 ATTORNEY HEATH:

13 I'm not talking about
14 immorality.

15 ATTORNEY NICHOLS:

16 Well, what are you
17 talking about here? You're
18 waving the Professional Code at
19 her.

20 ATTORNEY HEATH:

21 Yes.

22 ATTORNEY NICHOLS:

23 A code about immorality.
24 Please don't be disingenuous
25 with us.

1 ATTORNEY HEATH:

2 Have you read it?

3 ATTORNEY NICHOLS:

4 What are you talking

5 about?

6 ATTORNEY HEATH:

7 Have you even read it?

8 ATTORNEY NICHOLS:

9 I read it.

10 ATTORNEY HEATH:

11 It's the law.

12 ATTORNEY NICHOLS:

13 I've seen it before.

14 A. They should read it.

15 ATTORNEY HEATH:

16 It has nothing to do with

17 immorality except for one part.

18 It talks about professional

19 educators shall exhibit ---

20 ATTORNEY NICHOLS:

21 Precisely.

22 ATTORNEY HEATH:

23 --- consistent and

24 equitable treatment of

25 students, ---

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ATTORNEY NICHOLS:

Look, you're not ---.

ATTORNEY HEATH:

--- fellow educators and
parents.

ATTORNEY NICHOLS:

Counsel, Counsel ---.

ATTORNEY HEATH:

You haven't even read it.

ATTORNEY NICHOLS:

I have. You know why I
read it?

ATTORNEY HEATH:

Oh, dear God.

ATTORNEY NICHOLS:

You know why I read it?
Because the district has moved
to decertify her. And they
wrote me. She gave it to me,
and I had to respond to it.

ATTORNEY HEATH:

But this has nothing to
do with the question of ---.

ATTORNEY NICHOLS:

Oh, it is. This is what

1 they did. This is what ---
2 you're trying to decertify her.
3 You're trying to decertify
4 her ---

5 ATTORNEY HEATH:

6 I'm asking her ---.

7 ATTORNEY NICHOLS:

8 --- on the basis of this.

9 And then you come in here and
10 act, well, what are you talking
11 about?

12 ATTORNEY HEATH:

13 This is a federal
14 lawsuit.

15 ATTORNEY NICHOLS:

16 What are you talking
17 about?

18 ATTORNEY HEATH:

19 This is perfectly legal.

20 ATTORNEY NICHOLS:

21 You are trying to
22 decertify my client.

23 ATTORNEY HEATH:

24 Let the record reflect
25 that at this point, I'm warning

1 Mr. Nichols that this type of
2 behavior, I will go before the
3 Judge.

4 ATTORNEY NICHOLS:

5 We're going before the
6 Judge because I'm not going to
7 allow it.

8 ATTORNEY HEATH:

9 He is refusing to allow
10 his client to answer questions.
11 And I will move for dismissal of
12 the complaint because he is
13 refusing ---

14 ATTORNEY NICHOLS:

15 All right. You can
16 move ---.

17 ATTORNEY HEATH:

18 --- to cooperate with the
19 court ordered deposition
20 relative to discovery.

21 ATTORNEY NICHOLS:

22 All I can say on that
23 particular issue --- on that
24 particular issue, let me say
25 this. The record that I've

1 stated of Arbitrator Amis speaks
2 for itself. That is the issue
3 that she's put to us. My client
4 has answered. And I insist ---
5 or Counsel insists that I will
6 not allow her character to be
7 impugned this way when the
8 record clearly speaks on that
9 particular issue.

10 The arbitrator has
11 already ruled that she has done
12 nothing wrong. As a matter of
13 fact, it's that very basis that
14 we are asking for back wages,
15 unpaid wages, that I'm going to
16 be putting in the record.

17 ATTORNEY HEATH:

18 Again, I don't really
19 want to waste ---

20 ATTORNEY NICHOLS:

21 That very thing.

22 ATTORNEY HEATH:

23 --- any more time.

24 ATTORNEY NICHOLS:

25 Okay.

1 ATTORNEY HEATH:

2 To certify it for the
3 Judge, I'm filing the motion
4 tomorrow.

5 ATTORNEY NICHOLS:

6 All right.

7 ATTORNEY HEATH:

8 Actually, I'm not filing
9 it until Thursday because I
10 won't be in tomorrow.

11 ATTORNEY NICHOLS:

12 Fine.

13 EXAMINATION

14 BY ATTORNEY HEATH:

15 Q. Next is Exhibit 16. I'm going
16 to ask you to take a look at this.

17 (de Leon Exhibit Number
18 16 marked for
19 identification.)

20 WITNESS REVIEWS DOCUMENT

21 BY ATTORNEY HEATH:

22 Q. Have you ever seen the student
23 records policy before?

24 A. No, I never have.

25 Q. And are you aware that this was